

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

D

SENATE BILL 594
Judiciary II Committee Substitute Adopted 4/10/13
Health Care Committee Substitute Adopted 4/17/13
Fourth Edition Engrossed 4/22/13
House Committee Substitute Favorable 6/19/14
PROPOSED HOUSE COMMITTEE SUBSTITUTE S594-PCS45211-LR-44

Short Title: Omnibus Justice Amendments.

(Public)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED
AN ACT TO REMOVE PROHIBITIONS ON CARRYING CONCEALED FIREARMS BY
CERTAIN DEPARTMENT OF PUBLIC SAFETY EMPLOYEES; TO INCREASE THE
PENALTY FOR CARRYING A CONCEALED FIREARM; TO INCREASE THE
PENALTY FOR GIVING OR SELLING A CELL PHONE TO AN INMATE AND TO
MAKE POSSESSION OF A CELL PHONE BY AN INMATE UNLAWFUL; TO
AMEND THE OFFENSE OF MAKING THREATS AGAINST OR ASSAULTING
LEGISLATIVE, EXECUTIVE, OR COURT OFFICERS; TO CREATE AN OFFENSE
WHEN AN INMATE SOLICITS ANOTHER TO COMMIT A CRIMINAL OFFENSE;
TO INCREASE PENALTIES FOR CERTAIN VIOLATIONS OF THE AMUSEMENT
DEVICE SAFETY ACT; TO PROPERLY IMPLEMENT CURRENT EXPUNCTION
PROVISIONS; TO ADD QUALIFIED RETIRED CORRECTIONAL OFFICERS TO
OFFICERS EXEMPT FROM CONCEALED CARRY COURSE; TO CONFORM STATE
LAW WITH THE UNITED STATES SUPREME COURT DECISION IN HALL V.
FLORIDA; TO ADD THE UNFAIR USE OF CRIMINAL RECORD INFORMATION TO
THE CONSUMER PROTECTION LAWS; AND TO DIRECT MERGERS AT THE
DEPARTMENT OF PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

**PART I. REMOVE PROHIBITIONS ON CARRYING CONCEALED FIREARMS FOR
CERTAIN DEPARTMENT OF PUBLIC SAFETY EMPLOYEES AND INCREASE
PENALTY FOR CARRYING CONCEALED WEAPON THAT IS A FIREARM**

SECTION 1.1. G.S. 14-269 reads as rewritten:

"§ 14-269. Carrying concealed weapons.

...

(b) This prohibition shall not apply to the following persons:

...

(7) A person employed by the Department of Public Safety who has been
designated in writing by the Secretary of the Department, who has a
concealed handgun permit issued in accordance with Article 54B of this
Chapter or considered valid under G.S. 14-415.24, and has in the person's
possession written proof of the designation by the Secretary of the



* S 5 9 4 - P C S 4 5 2 1 1 - L R - 4 4 *

Department, provided that the person shall not carry a concealed weapon at any time while consuming alcohol or an unlawful controlled substance or while alcohol or an unlawful controlled substance remains in the person's body.

...."

SECTION 1.2. G.S. 14-269(c) reads as rewritten:

"(c) Any person violating the provisions of subsection (a) of this section shall be guilty of a Class 2 misdemeanor. Any person violating the provisions of subsection (a1) of this section shall be guilty of a ~~Class 2 misdemeanor~~ Class A1 misdemeanor for the first offense. A ~~offense and a Class H felony for a second or subsequent offense is punishable as a Class I felony offense.~~ A violation of subsection (a1) of this section punishable under G.S. 14-415.21(a) is not punishable under this section."

SECTION 1.3. G.S. 14-415.27 reads as rewritten:

"§ 14-415.27. Expanded permit scope for certain persons.

Notwithstanding G.S. 14-415.11(c), any of the following persons who has a concealed handgun permit issued pursuant to this Article or that is considered valid under G.S. 14-415.24 is not subject to the area prohibitions set out in G.S. 14-415.11(c) and may carry a concealed handgun in the areas listed in G.S. 14-415.11(c) unless otherwise prohibited by federal law:

- (1) A district attorney.
- (2) An assistant district attorney.
- (3) An investigator employed by the office of a district attorney.
- (4) A North Carolina district or superior court judge.
- (5) A magistrate.
- (6) A person who is elected and serving as a clerk of court.
- (7) A person who is elected and serving as a register of deeds.
- (8) A person employed by the Department of Public Safety who has been designated in writing by the Secretary of the Department and who has in the person's possession written proof of the designation."

SECTION 1.4. Section 1.2 of this Part is effective December 1, 2014, and applies to offenses occurring on or after that date. The remainder of this Part is effective when this act becomes law.

PART II. INCREASE PENALTY FOR GIVING OR SELLING A CELL PHONE TO AN INMATE/MAKE IT UNLAWFUL FOR STATE INMATE TO POSSESS A CELL PHONE/INCREASE PENALTY FOR INMATE OF LOCAL CONFINEMENT FACILITY TO POSSESS CELL PHONE

SECTION 2.1. G.S. 14-258.1 reads as rewritten:

"§ 14-258.1. Furnishing poison, controlled substances, deadly weapons, cartridges, ammunition or alcoholic beverages to inmates of charitable, mental or penal institutions or local confinement facilities; furnishing tobacco products or mobile phones to inmates.

...

(d) Any person who knowingly gives or sells a mobile telephone or other wireless communications device, or a component of one of those devices, to an inmate in the custody of the Division of Adult Correction of the Department of Public Safety or to an inmate in the custody of a local confinement facility, or any person who knowingly gives or sells any such device or component to a person who is not an inmate for delivery to an inmate, is guilty of a ~~Class 1 misdemeanor~~ Class H felony.

(e) Any inmate of a local confinement facility who possesses any tobacco product, as defined in G.S. 148-23.1, other than for authorized religious purposes, ~~or who possesses a~~

mobile telephone or other wireless communications device or a component of one of those devices, is guilty of a Class 1 misdemeanor.

(f) Any inmate in the custody of the Division of Adult Correction of the Department of Public Safety or an inmate of a local confinement facility who possesses a mobile telephone or other wireless communication device or a component of one of those devices is guilty of a Class H felony."

SECTION 2.2. This Part becomes effective December 1, 2014, and applies to offenses committed on or after that date.

PART III. ASSAULT ON A LEGISLATIVE, EXECUTIVE, OR COURT OFFICIAL/THREATS/SOLICITATION BY AN INMATE

SECTION 3.1. G.S. 14-16.6(a) reads as rewritten:

"(a) Any person who assaults any legislative officer, executive officer, or court officer, or assaults another person as retaliation against any legislative officer, executive officer, or court officer because of the exercise of that officer's duties, or any person who makes a violent attack upon the residence, office, temporary accommodation or means of transport of any one of those officers or persons in a manner likely to endanger the officer, officer or person, shall be guilty of a felony and shall be punished as a Class I felon."

SECTION 3.2. G.S. 14-16.7(a) reads as rewritten:

"§ 14-16.7. Threats against executive, legislative, or court officers.

(a) Any person who knowingly and willfully makes any threat to inflict serious bodily injury upon or to kill any legislative officer, executive officer, or court officer, or who knowingly and willfully makes any threat to inflict serious bodily injury upon or kill any other person as retaliation against any legislative officer, executive officer, or court officer because of the exercise of that officer's duties, shall be guilty of a felony and shall be punished as a Class I felon.

(b) Any person who knowingly and willfully deposits for conveyance in the mail any letter, writing, or other document containing a threat to ~~inflict serious bodily injury upon or to kill any legislative officer, executive officer, or court officer,~~ commit an offense described in subsection (a) of this section shall be guilty of a felony and shall be punished as a Class I felon."

SECTION 3.3. G.S. 14-2.6 is amended by adding a new subsection to read:

"(a1) A person who is lawfully committed to or confined in any State penal institution or local confinement facility and who solicits another person to commit a felony outside the State penal institution or local confinement facility is guilty of a felony that is one class lower than the felony the person solicited the other person to commit, except that a solicitation to commit a Class A or Class B1 felony is a Class B2 felony, a solicitation to commit a Class B2 felony is a Class C felony, and a solicitation to commit a Class I felony is a Class 1 misdemeanor."

SECTION 3.4. This Part becomes effective December 1, 2014, and applies to offenses committed on or after that date.

PART IV. AMUSEMENT DEVICE PENALTIES

SECTION 4.1. G.S. 95-111.13 reads as rewritten:

"§ 95-111.13. Violations; civil penalties; appeal; criminal penalties.

(a) Any person who violates G.S. 95-111.7(a) or (b) (Operation without certificate; operation not in accordance with Article or rules and regulations) or G.S. 95-111.8 (Location notice) shall be is subject to a civil penalty not to exceed ~~two hundred fifty dollars (\$250.00)~~ two thousand five hundred dollars (\$2,500) for each rule, regulation, or section of this Article violated and for each day each device is so operated or used.

(b) Any person who violates G.S. 95-111.7(c) (Operation after refusal to issue or after revocation of certificate) or G.S. 95-111.10(c) (Reports required) or G.S. 95-111.12 (Liability

insurance) ~~shall be~~ is subject to a civil penalty not to exceed ~~five hundred dollars (\$500.00)~~ five thousand dollars (\$5,000) for each day each device is so operated or used.

(c) ~~Any person who violates G.S. 95-111.8 (Location notice) shall be subject to a civil penalty not to exceed five hundred dollars (\$500.00) for each day any device is operated or used without the location notice having been provided.~~

(d) Any person who violates the provisions of G.S. 95-111.10(d) (Reports required) or knowingly permits the operation of an amusement device in violation of G.S. 95-111.11(a) (Operator requirements) ~~shall be~~ is subject to a civil penalty not to exceed ~~five hundred dollars (\$500.00)~~ five thousand dollars (\$5,000) for each day each device is so operated or used.

(e) Any person who violates G.S. 95-111.9 (Operation of unsafe device) or G.S. 95-111.11(b) (Operation of an amusement device while impaired) ~~shall be~~ is subject to a civil penalty not to exceed ~~one thousand dollars (\$1,000)~~ ten thousand dollars (\$10,000) for each day each device is so operated or used.

(f) In determining the amount of any penalty ordered under authority of this section, the Commissioner shall give due consideration to the appropriateness of the penalty with respect to ~~the size of the business of the person~~ annual gross volume of the business being charged, the gravity of the violation, the good faith of the ~~person~~ person, and the record of previous violations.

(g) The determination of the amount of the penalty by the Commissioner ~~shall be~~ is final, unless within 15 days after receipt of notice thereof by certified mail with return receipt, by signature confirmation as provided by the U.S. Postal Service, by a designated delivery service authorized pursuant to 26 U.S.C. § 7502(f)(2) with delivery receipt, or via hand delivery, the person charged with the violation takes exception to the determination, in which event final determination of the penalty shall be made in an administrative proceeding and in a judicial proceeding pursuant to Chapter 150B of the General Statutes, the Administrative Procedure Act.

(h) The Commissioner may file in the office of the clerk of the superior court of the county wherein the person, against whom a civil penalty has been ordered, resides, or if a corporation is involved, in the county wherein the corporation maintains its principal place of business, or in the county wherein the violation occurred, a certified copy of a final order of the Commissioner unappealed from, or of a final order of the Commissioner affirmed upon appeal. Whereupon, the clerk of said court shall enter judgment in accordance therewith and notify the parties. Such judgment shall have the same effect, and all proceedings in relation thereto shall thereafter be the same, as though said judgment had been rendered in a suit duly heard and determined by the superior court of the General Court of Justice.

(i) Any person who willfully violates any provision of this ~~Article, and the violation causes the death of any person, shall be~~ Article is guilty of a Class 2 misdemeanor, which may include a fine of not more than ten thousand dollars (\$10,000); except that if the conviction is for a violation committed after a first conviction of such person, a provision of this Article, the person shall be is guilty of a Class 1 misdemeanor, which may include a fine of not more than twenty thousand dollars (\$20,000). Any person who willfully violates any provision of this Article, and the violation causes the serious injury or death of any person, is guilty of a Class E felony, which may include a fine of not more than fifty thousand dollars (\$50,000). This subsection shall not prevent any prosecuting officer of the State of North Carolina from proceeding against such person on a prosecution charging any degree of willful or culpable homicide."

SECTION 4.2. This Part becomes effective December 1, 2014, and applies to offenses and violations committed on or after that date.

PART V. PROPER IMPLEMENTATION OF EXPUNCTION LAWS

SECTION 5.1. G.S. 15A-145.5(f) reads as rewritten:

"(f) Any other applicable State or local government agency shall expunge from its records entries made as a result of the conviction ordered expunged under this section upon receipt from the petitioner of an order entered pursuant to this section. The agency shall also vacate any administrative actions taken against a person whose record is expunged under this section as a result of the charges or convictions expunged. A person whose administrative action has been vacated by an occupational licensing board pursuant to an expunction under this section may then reapply for licensure and must satisfy the board's then current education and preliminary licensing requirements in order to obtain licensure. This subsection shall not apply to the Department of Justice for DNA records and samples stored in the State DNA Database and the State DNA ~~Databank or to fingerprint records Databank.~~"

SECTION 5.2. This Part is effective when it becomes law and applies to expunctions issued pursuant to G.S. 15A-145.5 before, on, or after that date.

PART VI. DEPARTMENT OF PUBLIC SAFETY MERGERS

TRANSFER THE SBI AND THE ALCOHOL LAW ENFORCEMENT SECTION

SECTION 6.1.(a) The State Bureau of Investigation is hereby transferred to the Department of Public Safety as a new section within the Law Enforcement Division. This transfer shall have all of the elements of a Type I transfer, as described in G.S. 143A-6.

SBI TRANSFER – CREATION OF STATUTORY SUBPARTS

SECTION 6.1.(b) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart A. General Provisions."

SECTION 6.1.(c) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart B. State Capitol Police."

SECTION 6.1.(d) Part 4 of Article 13 of Chapter 143B of the General Statutes is amended by adding a new Subpart to read:

"Subpart C. State Bureau of Investigation."

SBI TRANSFER – REPEAL OF CERTAIN STATUTES AND RECODIFICATION OF OTHER AFFECTED STATUTES

SECTION 6.1.(e) G.S. 114-13 is repealed.

SECTION 6.1.(f) G.S. 114-2.7 is recodified as G.S. 143B-901 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 6.1.(g) G.S. 114-10 through G.S. 114-10.1 are recodified as G.S. 143B-902 through G.S. 143B-905 under Subpart A of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of this section.

SECTION 6.1.(h) G.S. 143B-900 is recodified as G.S. 143B-911 under Subpart B of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (c) of this section.

SECTION 6.1.(i) G.S. 114-12 is recodified as G.S. 143B-915 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section. The following statutes are recodified as G.S. 143B-917 through G.S. 143B-924 under Subpart C of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of this section: G.S. 114-14 through G.S. 114-15.3 and G.S. 114-17 through G.S. 114-18.

1 **SECTION 6.1.(j)** G.S. 114-19 is recodified as G.S. 143B-906 under Subpart A of
2 Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (b) of
3 this section.

4 **SECTION 6.1.(k)** G.S. 114-19.01 is recodified as G.S. 143B-925 under Subpart C
5 of Part 4 of Article 13 of Chapter 143B of the General Statutes, as created by subsection (d) of
6 this section.

7 **SECTION 6.1.(l)** All of Part 2 of Article 4 of Chapter 114 of the General Statutes,
8 other than the section recodified by subsection (k) of this section, is recodified as Subpart D of
9 Part 4 of Article 13 of Chapter 143B of the General Statutes, "Criminal History Record
10 Checks," G.S. 143B-930 through G.S. 143B-981. Statutory sections of the former statutes that
11 were reserved for future codification shall have corresponding sections that are reserved for
12 future codification in the recodified statutes.

13 **SECTION 6.1.(m)** Part 3 of Article 4 of Chapter 114 of the General Statutes is
14 recodified as Subpart E of Part 4 of Article 13 of Chapter 143B of the General Statutes,
15 "Protection of Public Officials," G.S. 143B-986 through G.S. 143B-987.

16 17 **SBI TRANSFER – OTHER CHANGES**

18 **SECTION 6.1.(n)** The following statutes, as recodified by subsections (f) through
19 (m) of this section, as applicable, are amended by deleting the language "Department of
20 Justice" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.15A,
21 14-415.19, 15A-145, 15A-145.1, 15A-145.2, 15A-145.3, 15A-145.4(c) and (j), 15A-145.5(c),
22 15A-145.6(c), 15A-146, 18B-902, 19A-24, 48-3-309, 53-244.050, 58-71-51, 58-89A-60,
23 66-407, 70-13.1, 74C-8.1, 74D-2.1, 74F-18, 84-24, 85B-3.2, 90-11, 90-30, 90-85.15, 90-102.1,
24 90-113.5, 90-113.46A, 90-143.3, 90-171.48, 90-210.25, 90-224, 90-270.22, 90-270.26,
25 90-270.29A, 90-288.01, 90-622, 90-629, 90-629.1, 90-652, 90D-7, 93A-4, 95-47.2, 106-65.26,
26 110-90.2, 115C-238.73, 115C-332, 121-25.1, 143-166.13, 143-143.10A, 143B-930 through
27 143B-965, and 160A-304.

28 **SECTION 6.1.(o)** The following statutes, as recodified by subsections (f) through
29 (m) of this section, as applicable, are amended by deleting the language "Attorney General"
30 wherever it appears and substituting "Secretary of Public Safety": G.S. 15A-1475, 58-79-1
31 through 58-79-15, 58-79-25, 143B-921, and 163-278.

32 **SECTION 6.1.(p)** The following statutes, as recodified by subsections (f) through
33 (m) of this section, as applicable, are amended by deleting the language "Division of Criminal
34 Information" and "State Bureau of Investigation's Division of Criminal Information" wherever
35 they appear and substituting "Department of Public Safety": G.S. 7B-2507, 15A-1340.14,
36 15A-1340.21, 20-26, 85B-3.2, 122C-80, 143B-935, 143B-943, 143B-954, and 143B-981.

37 **SECTION 6.1.(q)** The following statutes are amended by deleting the language
38 "Division" wherever it appears and substituting "Department of Public Safety": G.S. 14-208.7,
39 14-208.8, 14-208.8A, 14-208.9, 14-208.9A, 14-208.12A, 14-208.15, 14-208.15A, 14-208.22,
40 and 14-208.27. However, no substitution shall be made under this subsection to instances of the
41 word "Division" that appear in the phrase "Division of Adult Correction."

42 **SECTION 6.1.(r)** G.S. 7A-349 reads as rewritten:

43 **"§ 7A-349. Criminal history record check; denial of employment, contract, or volunteer**
44 **opportunity.**

45 The Judicial Department may deny employment, a contract, or a volunteer opportunity to
46 any person who refuses to consent to a criminal history check authorized under
47 ~~G.S. 114-19.19~~G.S. 143B-950 and may dismiss a current employee, terminate a contractor, or
48 terminate a volunteer relationship if that employee, contractor, or volunteer refuses to consent
49 to a criminal history record check authorized under ~~G.S. 114-19.19~~G.S. 143B-950."

50 **SECTION 6.1.(s)** G.S. 7B-1904 reads as rewritten:

51 **"§ 7B-1904. Order for secure or nonsecure custody.**

The custody order shall be in writing and shall direct a law enforcement officer or other authorized person to assume custody of the juvenile and to make due return on the order. The official executing the order shall give a copy of the order to the juvenile's parent, guardian, or custodian. If the order is for nonsecure custody, the official executing the order shall also give a copy of the petition and order to the person or agency with whom the juvenile is being placed. If the order is for secure custody, copies of the petition and custody order shall accompany the juvenile to the detention facility or holdover facility of the jail. A message of ~~the Division of Criminal Information, State Bureau of Investigation,~~ the Department of Public Safety stating that a juvenile petition and secure custody order relating to a specified juvenile are on file in a particular county shall be authority to detain the juvenile in secure custody until a copy of the juvenile petition and secure custody order can be forwarded to the juvenile detention facility. The copies of the juvenile petition and secure custody order shall be transmitted to the detention facility no later than 72 hours after the initial detention of the juvenile.

An officer receiving an order for custody which is complete and regular on its face may execute it in accordance with its terms and need not inquire into its regularity or continued validity, nor does the officer incur criminal or civil liability for its execution."

SECTION 6.1.(t) G.S. 8-58.20(c) reads as rewritten:

"(c) The analyst who analyzes the forensic sample and signs the report shall complete an affidavit on a form developed by the ~~State Bureau of Investigation, State Crime Laboratory.~~ In the affidavit, the analyst shall state (i) that the person is qualified by education, training, and experience to perform the analysis, (ii) the name and location of the laboratory where the analysis was performed, and (iii) that performing the analysis is part of that person's regular duties. The analyst shall also aver in the affidavit that the tests were performed pursuant to the accrediting body's standards for that discipline and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory. The affidavit shall be sufficient to constitute prima facie evidence regarding the person's qualifications. The analyst shall attach the affidavit to the laboratory report and shall provide the affidavit to the investigating officer and the district attorney in the prosecutorial district in which the criminal charges are pending. An affidavit by a forensic analyst sworn to and properly executed before an official authorized to administer oaths is admissible in evidence without further authentication in any criminal proceeding with respect to the forensic analysis administered and the procedures followed."

SECTION 6.1.(u) G.S. 14-16.9 reads as rewritten:

"§ 14-16.9. Officers-elect to be covered.

Any person who has been elected to any office covered by this Article but has not yet taken the oath of office shall be considered to hold the office for the purpose of this Article and ~~G.S. 114-15, G.S. 143B-919."~~

SECTION 6.1.(v) G.S. 14-132(c)(3) reads as rewritten:

"(3) Designated by the ~~Attorney General~~ Secretary of Public Safety in accordance with ~~G.S. 114-20.1, G.S. 143B-987."~~

SECTION 6.1.(w) G.S. 14-208.6 reads as rewritten:

"§ 14-208.6. Definitions.

The following definitions apply in this Article:

...

(1c) ~~"Division"~~ "Department" means the ~~Division of Criminal Information of the Department of Justice, Department of Public Safety.~~

...

(8) "Statewide registry" means the central registry compiled by the ~~Division~~ Department in accordance with G.S. 14-208.14.

...."

SECTION 6.1.(x) G.S. 14-208.13 reads as rewritten:

1 **"§ 14-208.13. File with ~~Police~~ Criminal Information Network.**

2 (a) The ~~Division~~ Department of Public Safety shall include the registration information
3 in the ~~Police~~ Criminal Information Network as set forth in ~~G.S. 114-10.1~~ G.S. 143B-905.

4 (b) The ~~Division~~ Department of Public Safety shall maintain the registration
5 information permanently even after the registrant's reporting requirement expires."

6 **SECTION 6.1.(y)** G.S. 14-208.14 reads as rewritten:

7 **"§ 14-208.14. Statewide registry; ~~Division of Criminal Statistics~~ Department of Public
8 Safety designated custodian of statewide registry.**

9 (a) The ~~Division of Criminal Statistics~~ Department of Public Safety shall compile and
10 keep current a central statewide sex offender registry. The ~~Division~~ Department is the State
11 agency designated as the custodian of the statewide registry. As custodian the ~~Division~~
12 Department has the following responsibilities:

13 (1) To receive from the sheriff or any other law enforcement agency or penal
14 institution all sex offender registrations, changes of address, changes of
15 academic or educational employment status, and prerelease notifications
16 required under this Article or under federal law. The ~~Division~~ Department
17 shall also receive notices of any violation of this Article, including a failure
18 to register or a failure to report a change of address.

19 (2) To provide all need-to-know law enforcement agencies (local, State,
20 campus, federal, and those located in other states) immediately upon receipt
21 by the ~~Division~~ Department of any of the following: registration
22 information, a prerelease notification, a change of address, a change of
23 academic or educational employment status, or notice of a violation of this
24 Article.

25 (2a) To notify the appropriate law enforcement unit at an institution of higher
26 education as soon as possible upon receipt by the ~~Division~~ Department of
27 relevant information based on registration information or notice of a change
28 of academic or educational employment status. If an institution of higher
29 education does not have a law enforcement unit, then the ~~Division~~
30 Department shall provide the information to the local law enforcement
31 agency that has jurisdiction for the campus.

32 (3) To coordinate efforts among law enforcement agencies and penal institutions
33 to ensure that the registration information, changes of address, change of
34 name, prerelease notifications, and notices of failure to register or to report a
35 change of address are conveyed in an appropriate and timely manner.

36 (4) To provide public access to the statewide registry in accordance with this
37 Article.

38 (4a) To maintain the system for public access so that a registrant's full name, any
39 aliases, and any legal name changes are cross-referenced and a member of
40 the public may conduct a search of the system for a registrant under any of
41 those names.

42 (5) To maintain a system allowing an entity to access a list of online identifiers
43 of persons in the central sex offender registry.

44 (b) The statewide registry shall include the following:

45 (1) Registration information obtained by a sheriff or penal institution under this
46 Article or from any other local or State law enforcement agency.

47 (2) Registration information received from a state or local law enforcement
48 agency or penal institution in another state.

49 (3) Registration information received from a federal law enforcement agency or
50 penal institution."

51 **SECTION 6.1.(z)** G.S. 14-208.31 reads as rewritten:

1 **"§ 14-208.31. File with ~~Police~~ Criminal Information Network.**

2 (a) The ~~Division~~ Department of Public Safety shall include the registration information
3 in the ~~Police~~ Criminal Information Network as set forth in ~~G.S. 114-10.1~~ G.S. 143B-905.

4 (b) The ~~Division~~ Department of Public Safety shall maintain the registration
5 information permanently even after the registrant's reporting requirement expires; however, the
6 records shall remain confidential in accordance with Article 32 of Chapter 7B of the General
7 Statutes."

8 **SECTION 6.1.(aa)** G.S. 14-415.4(d)(5) reads as rewritten:

9 "(5) The petitioner submits his or her fingerprints to the sheriff of the county in
10 which the petitioner resides for a criminal background check pursuant to
11 ~~G.S. 114-19.28~~ G.S. 143B-959."

12 **SECTION 6.1.(bb)** G.S. 15A-266.2(4) reads as rewritten:

13 "(4) 'DNA Sample' means blood, cheek swabs, or any biological sample
14 containing cells provided by any person with respect to offenses covered by
15 this Article or submitted to the ~~State Bureau of Investigation~~ State Crime
16 Laboratory pursuant to this Article for analysis pursuant to a criminal
17 investigation or storage or both."

18 **SECTION 6.1.(cc)** G.S. 15A-1341(d) reads as rewritten:

19 "(d) Search of Sex Offender Registration Information Required When Placing a
20 Defendant on Probation. – When the court places a defendant on probation, the probation
21 officer assigned to the defendant shall conduct a search of the defendant's name or other
22 identifying information against the registration information regarding sex offenders compiled
23 by the ~~Division of Criminal Statistics of the Department of Justice~~ Department of Public Safety
24 in accordance with Article 27A of Chapter 14 of the General Statutes. The probation officer
25 may conduct the search using the Internet site maintained by the ~~Division of Criminal~~
26 Statistics Department of Public Safety."

27 **SECTION 6.1.(dd)** G.S. 15A-298 reads as rewritten:

28 **"§ 15A-298. Subpoena authority.**

29 Pursuant to rules issued by the ~~Attorney General~~ Department of Public Safety, the Director
30 of the State Bureau of Investigation or the Director's designee may issue an administrative
31 subpoena to a communications common carrier or an electronic communications service to
32 compel production of business records if the records:

33 (1) Disclose information concerning local or long-distance toll records or
34 subscriber information; and

35 (2) Are material to an active criminal investigation being conducted by the State
36 Bureau of Investigation."

37 **SECTION 6.1.(ee)** G.S. 18C-151(a)(3) reads as rewritten:

38 "(3) All proposals shall be accompanied by a bond or letter of credit in an amount
39 equal to not less than five percent (5%) of the proposal and the fee to cover
40 the cost of the criminal record check conducted under
41 ~~G.S. 114-19.6~~ G.S. 143B-935."

42 **SECTION 6.1.(ff)** G.S. 74F-6(16) reads as rewritten:

43 "(16) Request that the ~~Department of Justice~~ Department of Public Safety conduct
44 criminal history record checks of applicants for licensure and
45 apprenticeships pursuant to ~~G.S. 114-19.15~~ G.S. 143B-946."

46 **SECTION 6.1.(gg)** G.S. 90-113.33(10) reads as rewritten:

47 "(10) Request that the ~~Department of Justice~~ Department of Public Safety conduct
48 criminal history record checks of applicants for registration, certification, or
49 licensure pursuant to ~~G.S. 114-19.11A~~ G.S. 143B-941."

50 **SECTION 6.1.(hh)** G.S. 90-171.23(b)(19) reads as rewritten:

"(19) Request that the ~~Department of Justice~~Department of Public Safety conduct criminal history record checks of applicants for licensure pursuant to ~~G.S. 114-19.11~~G.S. 143B-940."

SECTION 6.1.(ii) G.S. 90-270.63(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal history record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.27~~G.S. 143B-958. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 6.1.(jj) G.S. 90-345(b) reads as rewritten:

"(b) The Board may request that an applicant for licensure, an applicant seeking reinstatement of a license, or a licensee under investigation by the Board for alleged criminal offenses in violation of this Article consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny licensure to an applicant, deny reinstatement of a license to an applicant, or revoke the license of a licensee. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or licensee to be checked, a form signed by the applicant or licensee consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.26~~G.S. 143B-957. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 6.1.(kk) G.S. 93E-1-6(c1) reads as rewritten:

"(c1) The Board shall also make an investigation as it deems necessary into the background of the applicant to determine the applicant's qualifications with due regard to the paramount interest of the public as to the applicant's competency, honesty, truthfulness, and integrity. All applicants shall consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny an application. The Board shall ensure that the State and national criminal history of an applicant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant to be checked, a form signed by the applicant consenting to the criminal history record check, and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories and any additional information required by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.30~~G.S. 143B-961. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect

any fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 6.1.(ll) G.S. 93E-2-11(b) reads as rewritten:

"(b) The Board may require that an applicant for registration as an appraisal management company or a registrant consent to a criminal history record check. Refusal to consent to a criminal history record check may constitute grounds for the Board to deny registration to an applicant or registrant. The Board shall ensure that the State and national criminal history of an applicant or registrant is checked. The Board shall be responsible for providing to the North Carolina ~~Department of Justice~~Department of Public Safety the fingerprints of the applicant or registrant to be checked, a form signed by the applicant or registrant consenting to the criminal record check and the use of fingerprints and other identifying information required by the State or National Repositories of Criminal Histories, and any additional information required by the ~~Department of Justice~~Department of Public Safety in accordance with ~~G.S. 114-19.30~~G.S. 143B-961. The Board shall keep all information obtained pursuant to this section confidential. The Board shall collect any fees required by the ~~Department of Justice~~Department of Public Safety and shall remit the fees to the ~~Department of Justice~~Department of Public Safety for expenses associated with conducting the criminal history record check."

SECTION 6.1.(mm) G.S. 101-5 reads as rewritten:

"§ 101-5. Name change application requirements; grounds for clerk to order or deny name change; certificate and record.

...

(e) The clerk shall forward the order granting the name change to:

...

(2) The ~~Division of Criminal Information at the State Bureau of Investigation~~Department of Public Safety, which shall update its records to show the name change.

...

(g) Upon information obtained by the clerk of fraud or material misrepresentation in the application for a name change, the clerk on his or her own motion may set aside the order granting the name change after notice to the applicant and opportunity to be heard. If the clerk sets aside the name change order, the clerk shall notify the State Registrar of Vital Statistics and the ~~Division of Criminal Information~~Department of Public Safety."

SECTION 6.1.(nn) G.S. 110-90.2(g), as rewritten by subsection (n) of this section, reads as rewritten:

"(g) The child care provider shall pay the cost of the fingerprinting and the federal criminal history record check in accordance with ~~G.S. 114-19.5~~G.S. 143B-934. The Department of Public Safety shall perform the State criminal history record check. The Department of Health and Human Services shall pay for and conduct the county criminal history record check. Child care providers who reside outside the State bear the cost of the county criminal history record check and shall provide the county criminal history record check to the Division of Child Development as required by this section."

SECTION 6.1.(oo) G.S. 113-172(a) reads as rewritten:

"(a) The Secretary shall designate license agents for the Department. The Division and license agents designated by the Secretary under this section shall issue licenses authorized under this Article in accordance with this Article and the rules of the Commission. The Secretary may require license agents to enter into a contract that provides for their duties and compensation, post a bond, and submit to reasonable inspections and audits. If a license agent violates any provision of this Article, the rules of the Commission, or the terms of the contract, the Secretary may initiate proceedings for the forfeiture of the license agent's bond and may

1 summarily suspend, revoke, or refuse to renew a designation as a license agent and may
2 impound or require the return of all licenses, moneys, record books, reports, license forms and
3 other documents, ledgers, and materials pertinent or apparently pertinent to the license agency.
4 The Secretary shall report evidence or misuse of State property, including license fees, by a
5 license agent to the State Bureau of Investigation as provided by
6 ~~G.S. 114-15.1.~~G.S. 143B-920."

7 **SECTION 6.1.(pp)** G.S. 114-2.7, recodified as G.S. 143B-901 by subsection (f) of
8 this section, reads as rewritten:

9 "**§ 143B-901. Reporting system and database on certain domestic-violence-related**
10 **homicides; reports by law enforcement agencies required; annual report to the**
11 **General Assembly.**

12 The ~~Attorney General's Office,~~Department of Public Safety, in consultation with the North
13 Carolina Council for Women/Domestic Violence Commission, the North Carolina Sheriffs'
14 Association, and the North Carolina Association of Chiefs of Police, shall develop a reporting
15 system and database that reflects the number of homicides in the State where the offender and
16 the victim had a personal relationship, as defined by G.S. 50B-1(b). The information in the
17 database shall also include the type of personal relationship that existed between the offender
18 and the victim, whether the victim had obtained an order pursuant to G.S. 50B-3, and whether
19 there was a pending charge for which the offender was on pretrial release pursuant to
20 G.S. 15A-534.1. All State and local law enforcement agencies shall report information to the
21 ~~Attorney General's Office~~Department of Public Safety upon making a determination that a
22 homicide meets the reporting system's criteria. The report shall be made in the format adopted
23 by the ~~Attorney General's Office,~~Department of Public Safety. The ~~Attorney General's Office~~
24 ~~Department of Public Safety~~ shall report to the ~~Joint Legislative Committee on Domestic~~
25 ~~Violence,~~Joint Legislative Oversight Committee on Justice and Public Safety, no later than
26 February 1 of each year, with the data collected for the previous calendar year."

27 **SECTION 6.1.(qq)** G.S. 114-10, recodified as G.S. 143B-902 by subsection (g) of
28 this section, reads as rewritten:

29 "**§ 143B-902. ~~Division of Criminal Information.~~Powers and duties of the Department of**
30 **Public Safety with respect to criminal information.**

31 The Attorney General shall set up in the Department of Justice a division to be designated
32 as the Division of Criminal Information. In addition to its other duties, it shall be the duty of the
33 Department of Public Safety to do all of the following:

34 ...

35 (2) To collect, correlate, and maintain access to information that will assist in
36 the performance of duties required in the administration of criminal justice
37 throughout the State. This information may include, but is not limited to,
38 motor vehicle registration, drivers' licenses, wanted and missing persons,
39 stolen property, warrants, stolen vehicles, firearms registration, sexual
40 offender registration as provided under Article 27A of Chapter 14 of the
41 General Statutes, drugs, drug users and parole and probation histories. In
42 performing this function, the ~~Division~~Department may arrange to use
43 information available in other agencies and units of State, local and federal
44 government, but shall provide security measures to insure that such
45 information shall be made available only to those whose duties, relating to
46 the administration of justice, require such information.

47 ...

48 (5) ~~To perform such other duties as may be from time to time prescribed by the~~
49 ~~Attorney General.~~

50 (6) To promulgate rules and regulations for the administration of this Article."

1 **SECTION 6.1.(rr)** G.S. 114-10.01, recodified as G.S. 143B-903 by subsection (g)
2 of this section, reads as rewritten:

3 **"§ 143B-903. Collection of traffic law enforcement statistics.**

4 (a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal~~
5 ~~Information~~ In addition to its other duties, the Department of Public Safety shall collect,
6 correlate, and maintain the following information regarding traffic law enforcement by law
7 enforcement officers:

8 ...
9 (b) For purposes of this section, "law enforcement officer" means any of the following:

- 10 (1) All State law enforcement officers.
11 (2) Law enforcement officers employed by county sheriffs or county police
12 departments.
13 (3) Law enforcement officers employed by police departments in municipalities
14 with a population of 10,000 or more persons.
15 (4) Law enforcement officers employed by police departments in municipalities
16 employing five or more full-time sworn officers for every 1,000 in
17 population, as calculated by the ~~Division~~ Department for the calendar year in
18 which the stop was made.

19 ...
20 (d) Each law enforcement officer making a stop covered by subdivision (1) of
21 subsection (a) of this section shall be assigned an anonymous identification number by the
22 officer's employing agency. The anonymous identifying number shall be public record and
23 shall be reported to the ~~Division~~ Department to be correlated along with the data collected
24 under subsection (a) of this section. The correlation between the identification numbers and the
25 names of the officers shall not be a public record, and shall not be disclosed by the agency
26 except when required by order of a court of competent jurisdiction to resolve a claim or defense
27 properly before the court.

28 (d1) Any agency subject to the requirements of this section shall submit information
29 collected under subsection (a) of this section to the ~~Division~~ Department within 60 days of the
30 close of each month. Any agency that does not submit the information as required by this
31 subsection shall be ineligible to receive any law enforcement grants available by or through the
32 State until the information which is reasonably available is submitted.

33 (e) The ~~Division~~ Department shall publish and distribute by December 1 of each year a
34 list indicating the law enforcement officers that will be subject to the provisions of this section
35 during the calendar year commencing on the following January 1."

36 **SECTION 6.1.(ss)** G.S. 114-10.02, recodified as G.S. 143B-904 by subsection (g)
37 of this section, reads as rewritten:

38 **"§ 143B-904. Collection of statistics on the use of deadly force by law enforcement**
39 **officers.**

40 (a) ~~In addition to the duties set forth in G.S. 114-10, the Division of Criminal~~
41 ~~Information~~ its other duties, the Department of Public Safety shall collect, maintain, and
42 annually publish the number of deaths, by law enforcement agency, resulting from the use of
43 deadly force by law enforcement officers in the course and scope of their official duties.

44 (b) For purposes of this section, "law enforcement officer" means sworn law
45 enforcement officers with the power of arrest, both State and local."

46 **SECTION 6.1.(tt)** G.S. 114-10.1, recodified as G.S. 143B-905 by subsection (g) of
47 this section, reads as rewritten:

48 **"§ 143B-905. Police-Criminal Information Network.**

49 (a) The ~~Division of Criminal Information~~ Department of Public Safety is authorized to
50 establish, devise, maintain and operate a system for receiving and disseminating to participating
51 agencies information collected, maintained and correlated under authority of ~~G.S. 114-10~~ of

1 ~~this Article.~~ G.S. 143B-902. The system shall be known as the ~~Division of Criminal Information~~
2 Network.

3 (b) ~~The Division of Criminal Information~~ Department of Public Safety is authorized to
4 cooperate with the Division of Motor Vehicles, Department of Administration, ~~the Department~~
5 ~~of Public Safety~~, and other State, local and federal agencies and organizations in carrying out
6 the purpose and intent of this section, and to utilize, in cooperation with other State agencies
7 and to the extent as may be practical, computers and related equipment as may be operated by
8 other State agencies.

9 (c) ~~The Division of Criminal Information~~ Department of Public Safety, after
10 consultation with participating agencies, shall adopt rules and regulations governing the
11 organization and administration of the ~~Division of Criminal Information Network~~, including
12 rules and regulations governing the types of information relating to the administration of
13 criminal justice to be entered into the system, and who shall have access to such information.
14 The rules and regulations governing access to the ~~Division of Criminal Information Network~~
15 shall not prohibit an attorney who has entered a criminal proceeding in accordance with
16 G.S. 15A-141 from obtaining information relevant to that criminal proceeding. The rules and
17 regulations governing access to the ~~Division of Criminal Information Network~~ shall not
18 prohibit an attorney who represents a person in adjudicatory or dispositional proceedings for an
19 infraction from obtaining the person's driving record or criminal history.

20 (d) ~~The Division of Criminal Information may impose an initial set up fee of two~~
21 ~~thousand six hundred fifty dollars (\$2,650) for agencies to participate in the Division of~~
22 ~~Criminal Information Network. This one-time fee shall be used to offset the cost of the router~~
23 ~~and data circuit needed to access the Network.~~

24 ~~The Division of Criminal Information~~ Department may also impose monthly fees on
25 participating agencies. The monthly fees collected under this subsection shall be used to offset
26 the cost of operating and maintaining the ~~Police Criminal Information Network~~ Network.

27 (1) ~~The Division of Criminal Information~~ Department may impose a monthly
28 circuit fee on agencies that access the ~~Division of Criminal Information~~
29 Network through a circuit maintained and operated by the ~~Department of~~
30 ~~Justice~~ Department of Public Safety. The amount of the monthly fee is three
31 hundred dollars (\$300.00) plus an additional fee amount for each device
32 linked to the Network. The additional fee amount varies depending upon the
33 type of device. For a desktop device after the first seven desktop devices, the
34 additional monthly fee is twenty-five dollars (\$25.00) per device. For a
35 mobile device, the additional monthly fee is twelve dollars (\$12.00) per
36 device.

37 (2) ~~The Division of Criminal Information~~ Department may impose a monthly
38 device fee on agencies that access the ~~Police Criminal Information Network~~
39 through some other approved means. The amount of the monthly device fee
40 varies depending upon the type of device. For a desktop device, the monthly
41 fee is twenty-five dollars (\$25.00) per device. For a mobile device, the fee is
42 twelve dollars (\$12.00) per device."

43 **SECTION 6.1(uu)** G.S. 114-12, recodified as G.S. 143B-915 by subsection (i) of
44 this section, reads as rewritten:

45 **"§ 143B-915. Bureau of Investigation created; powers and duties.**

46 In order to secure a more effective administration of the criminal laws of the State, to
47 prevent crime, and to procure the speedy apprehension of criminals, the Attorney
48 General Secretary of Public Safety shall set up in the Division of Law Enforcement of the
49 Department of Justice Public Safety a division section to be designated as the State Bureau of
50 Investigation. The Division Section shall have charge of and administer the agencies and
51 activities herein set up for the identification of criminals, for their apprehension, and

1 investigation and preparation of evidence to be used in criminal courts; and the said Bureau
2 shall have charge of investigation of criminal matters herein especially mentioned, and of such
3 other crimes and criminal procedure as the Governor may direct.

4 In the personnel of the Bureau shall be included a sufficient number of persons of training
5 and skill in the investigation of crime and in the preparation of evidence as to be of service to
6 local enforcement officers, under the direction of the Governor, in criminal matters of major
7 importance.

8 The State radio system shall be made available to the Bureau Laboratory for use in its
9 work."

10 **SECTION 6.1.(vv)** G.S. 114-14, recodified as G.S. 143B-917 by subsection (i) of
11 this section, reads as rewritten:

12 **"§ 143B-917. General powers and duties of ~~Director and assistants~~law enforcement**
13 **officers of the State Bureau of Investigation.**

14 ~~The Director of the Bureau and his assistants~~Sworn law enforcement officers of the State
15 Bureau of Investigation are given the same power of arrest as is now vested in the sheriffs of
16 the several counties, and their jurisdiction shall be statewide. ~~The Director of the Bureau and~~
17 ~~his assistants~~Sworn law enforcement officers of the Bureau shall, at the request of the
18 Governor, give assistance to sheriffs, police officers, district attorneys, and judges when called
19 upon by them and so directed. ~~They shall also give assistance, when requested, to the~~
20 ~~Department of Public Safety in the investigation of cases pending before the parole office and~~
21 ~~of complaints lodged against parolees, when so directed by the Governor."~~

22 **SECTION 6.1.(ww)** G.S. 114-15, recodified as G.S. 143B-919 by subsection (i) of
23 this section, reads as rewritten:

24 **"§ 143B-919. Investigations of lynchings, election frauds, etc.; services subject to call of**
25 **Governor; witness fees and mileage for ~~Director and assistants~~employees.**

26 (a) The Bureau shall, ~~through its Director and~~ upon request of the Governor, investigate
27 and prepare evidence in the event of any lynching or mob violence in the State; shall
28 investigate all cases arising from frauds in connection with elections when requested to do so
29 by the Board of Elections, and when so directed by the Governor. Such investigation, however,
30 shall in nowise interfere with the power of the Attorney General to make such investigation as
31 the Attorney General is authorized to make under the laws of the State. The Bureau is
32 authorized further, at the request of the Governor, to investigate cases of frauds arising under
33 the Social Security Laws of the State, of violations of the gaming laws, and lottery laws, and
34 matters of similar kind when called upon by the Governor so to do. In all such cases it shall be
35 the duty of the Department to keep such records as may be necessary and to prepare evidence
36 in the cases investigated, for the use of enforcement officers and for the trial of causes. The
37 services of ~~the Director of the Bureau, and of the Director's assistants~~employees of the Bureau
38 may be required by the Governor in connection with the investigation of any crime committed
39 anywhere in the State when called upon by the enforcement officers of the State, and when, in
40 the judgment of the Governor, such services may be rendered with advantage to the
41 enforcement of the criminal law. The State Bureau of Investigation is hereby authorized to
42 investigate without request the attempted arson of, or arson of, damage of, theft from, or theft
43 of, or misuse of, any State-owned personal property, buildings, or other real property or any
44 assault upon or threats against any legislative officer named in G.S. 147-2(1), (2), or (3), any
45 executive officer named in G.S. 147-3(c), or any court officer as defined in G.S. 14-16.10(1).

46 (a1) The Bureau also is authorized at the request of the Governor to conduct a
47 background investigation on a person that the Governor plans to nominate for a position that
48 must be confirmed by the General Assembly, the Senate, or the House of Representatives. The
49 background investigation of the proposed nominee shall be limited to an investigation of the
50 person's criminal record, educational background, employment record, records concerning the
51 listing and payment of taxes, and credit record, and to a requirement that the person provide the

information contained in the statements of economic interest required to be filed by persons subject to Chapter 138A of the General Statutes. The Governor must give the person being investigated written notice that the Governor intends to request a background investigation at least 10 days prior to the date that the Governor requests the State Bureau of Investigation to conduct the background investigation. The written notice shall be sent by regular mail, and there is created a rebuttable presumption that the person received the notice if the Governor has a copy of the notice.

...
(c) All records and evidence collected and compiled by ~~the Director of the Bureau and his assistants~~ employees of the Bureau shall, upon request, be made available to the district attorney of any district if the same concerns persons or investigations in his district.

(d) In all cases where the cost is assessed against the defendant and paid by him, there shall be assessed in the bill of cost, mileage and witness fees to ~~the Director and any of his assistants~~ any employees of the Bureau who are witnesses in cases arising in courts of this State. The fees so assessed, charged and collected shall be forwarded by the clerks of the court to the Treasurer of the State of North Carolina, and there credited to the Bureau of Identification and Investigation Fund."

SECTION 6.1.(xx) G.S. 114-19.1(d), as recodified by subsection (l) of this section, reads as rewritten:

"(d) Nothing in this section shall be construed as enlarging any right to receive any record of the State Bureau of Investigation. Such rights are and shall be controlled by ~~G.S. 114-15, G.S. 114-19, G.S. 120-19.4A, G.S. 143B-919, 143B-906, 120-19.4A,~~ and other applicable statutes."

SECTION 6.1.(yy) G.S. 114-19.6(b), as recodified by subsection (l) of this section and rewritten by subsection (o) of this section, reads as rewritten:

"(b) When requested by the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety, the North Carolina Department of Public Safety may provide to the requesting department or division a covered person's criminal history from the State Repository of Criminal Histories. Such requests shall not be due to a person's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by G.S. 168A-3. For requests for a State criminal history record check only, the requesting department or division shall provide to the Department of Public Safety a form consenting to the check signed by the covered person to be checked and any additional information required by the Department of Public Safety. National criminal record checks are authorized for covered applicants who have not resided in the State of North Carolina during the past five years. For national checks the Department of Health and Human Services or the Division of Juvenile Justice of the Department of Public Safety shall provide to the North Carolina Department of Public Safety the fingerprints of the covered person to be checked, any additional information required by the Department of Public Safety, and a form signed by the covered person to be checked consenting to the check of the criminal record and to the use of fingerprints and other identifying information required by the State or National Repositories. The fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a search of the State criminal history record file and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check. The Department of Health and Human Services and the Division of Juvenile Justice of the Department of Public Safety shall keep all information pursuant to this section confidential. The Department of Public Safety shall charge a reasonable fee for conducting the checks of the criminal history records authorized by this section."

SECTION 6.1.(zz) G.S. 114-20, recodified as G.S. 143B-986 by subsection (m) of this section, reads as rewritten:

"§ 143B-986. Authority to provide protection to certain public officials.

1 The North Carolina State Bureau of Investigation is authorized to provide protection to
2 public officials who request it, and who, in the discretion of the Director of the Bureau with the
3 approval of ~~the Attorney General, the Secretary of Public Safety,~~ demonstrate a need for such
4 protection. The bureau shall not provide protection for any individual other than the Governor
5 for a period greater than 30 days without review and reapproval by the ~~Attorney~~
6 ~~General, Secretary of Public Safety.~~ This review and reapproval shall be required at the end of
7 each 30-day period."

8 **SECTION 6.1.(aaa)** G.S. 114-20.1, recodified as G.S. 143B-987 by subsection (m)
9 of this section, reads as rewritten:

10 **"§ 143B-987. Authority to designate areas for protection of public officials.**

11 (a) ~~The Attorney General~~Secretary of Public Safety is authorized to designate buildings
12 and grounds which constitute temporary residences or temporary offices of any public official
13 being protected under authority of ~~G.S. 114-20,~~G.S. 143B-986, or any area that will be visited
14 by any such official, a public building or facility during the time of such use.

15 (b) ~~The Attorney General or the Director of the State Bureau of Investigation~~Secretary
16 ~~of Public Safety~~ may, with the consent of the official to be protected, make rules governing
17 ingress to or egress from such buildings, grounds or areas designated under this section."

18 **SECTION 6.1.(bbb)** G.S. 122C-80 reads as rewritten:

19 **"§ 122C-80. Criminal history record check required for certain applicants for**
20 **employment.**

21 ...
22 (b) Requirement. – An offer of employment by a provider licensed under this Chapter
23 to an applicant to fill a position that does not require the applicant to have an occupational
24 license is conditioned on consent to a State and national criminal history record check of the
25 applicant. If the applicant has been a resident of this State for less than five years, then the offer
26 of employment is conditioned on consent to a State and national criminal history record check
27 of the applicant. The national criminal history record check shall include a check of the
28 applicant's fingerprints. If the applicant has been a resident of this State for five years or more,
29 then the offer is conditioned on consent to a State criminal history record check of the
30 applicant. A provider shall not employ an applicant who refuses to consent to a criminal history
31 record check required by this section. Except as otherwise provided in this subsection, within
32 five business days of making the conditional offer of employment, a provider shall submit a
33 request to the ~~Department of Justice~~Department of Public Safety under
34 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a criminal history record check required by this
35 section or shall submit a request to a private entity to conduct a State criminal history record
36 check required by this section. Notwithstanding ~~G.S. 114-19.10,~~G.S. 143B-939, the
37 ~~Department of Justice~~Department of Public Safety shall return the results of national criminal
38 history record checks for employment positions not covered by Public Law 105-277 to the
39 Department of Health and Human Services, Criminal Records Check Unit. Within five business
40 days of receipt of the national criminal history of the person, the Department of Health and
41 Human Services, Criminal Records Check Unit, shall notify the provider as to whether the
42 information received may affect the employability of the applicant. In no case shall the results
43 of the national criminal history record check be shared with the provider. Providers shall make
44 available upon request verification that a criminal history check has been completed on any
45 staff covered by this section. A county that has adopted an appropriate local ordinance and has
46 access to the Division of Criminal Information data bank may conduct on behalf of a provider a
47 State criminal history record check required by this section without the provider having to
48 submit a request to the Department of Justice. In such a case, the county shall commence with
49 the State criminal history record check required by this section within five business days of the
50 conditional offer of employment by the provider. All criminal history information received by
51 the provider is confidential and may not be disclosed, except to the applicant as provided in

subsection (c) of this section. For purposes of this subsection, the term "private entity" means a business regularly engaged in conducting criminal history record checks utilizing public records obtained from a State agency.

...

(g) Conditional Employment. – A provider may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

(1) The provider shall not employ an applicant prior to obtaining the applicant's consent for criminal history record check as required in subsection (b) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10~~ G.S. 143B-939.

(2) The provider shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment."

SECTION 6.1.(ccc) G.S. 122C-205(c) reads as rewritten:

"(c) Upon receipt of notice of an escape or breach of a condition of release as described in subsections (a) and (b) of this section, an appropriate law enforcement officer shall take the client into custody and have the client returned to the 24-hour facility from which the client has escaped or has been conditionally released. Transportation of the client back to the 24-hour facility shall be provided in the same manner as described in G.S. 122C-251 and G.S. 122C-408(b). Law enforcement agencies who are notified of a client's escape or breach of conditional release shall be notified of the client's return by the responsible 24-hour facility. Under the circumstances described in this section, the initial notification by the 24-hour facility of the client's escape or breach of conditional release shall be given by telephone communication to the appropriate law enforcement agency or agencies and, if available and appropriate, by ~~Division of Criminal Information (DCI)~~ Department of Public Safety message to any law enforcement agency in or out of state and by entry into the National Crime Information Center (NCIC) telecommunications system. As soon as reasonably possible following notification, written authorization to take the client into custody shall also be issued by the 24-hour facility. Under this section, law enforcement officers shall have the authority to take a client into custody upon receipt of the telephone notification or ~~Division of Criminal Information~~ Department of Public Safety message prior to receiving written authorization. The notification of a law enforcement agency does not, in and of itself, render this information public information within the purview of Chapter 132 of the General Statutes. However, the responsible law enforcement agency shall determine the extent of disclosure of personal identifying and background information reasonably necessary, under the circumstances, in order to assure the expeditious return of a client to the 24-hour facility involved and to protect the general public and is authorized to make such disclosure. The responsible law enforcement agency may also place any appropriate message or entry into either the ~~Division of Criminal Information System~~ Department of Public Safety's Criminal Information System or National Crime Information System, or both, as appropriate."

SECTION 6.1.(ddd) G.S. 131D-10.3A reads as rewritten:

"§ 131D-10.3A. Mandatory criminal checks.

...

(d) The ~~Department of Justice~~ Department of Public Safety shall provide to the Department the criminal history of the individuals specified in subsection (a) of this section obtained from the State and National Repositories of Criminal Histories as requested by the Department. The Department shall provide to the ~~Department of Justice~~ Department of Public Safety, along with the request, the fingerprints of the individual to be checked, any additional information required by the ~~Department of Justice~~ Department of Public Safety, and a form consenting to the check of the criminal record and to the use of fingerprints and other

identifying information required by the State or National Repositories signed by the individual to be checked. The fingerprints of the individual to be checked shall be forwarded to the State Bureau of Investigation for a search of the State's criminal history record file, and the State Bureau of Investigation shall forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal history record check.

...
(i) ~~The Department of Justice~~Department of Public Safety shall perform the State and national criminal history checks on individuals required by this section and shall charge the Department a reasonable fee only for conducting the checks of the national criminal history records authorized by this section. The Division of Social Services, Department of Health and Human Services, shall bear the costs of implementing this section."

SECTION 6.1.(eee) G.S. 131D-40 reads as rewritten:

"§ 131D-40. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Adult Care Home. – An offer of employment by an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of employment, an adult care home shall submit a request to the ~~Department of Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-939, the ~~Department of Justice~~Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the adult care home. Adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the home is confidential and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

(a1) Requirement; Contract Agency of Adult Care Home. – An offer of employment by a contract agency of an adult care home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned upon consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. A contract agency of an adult care home shall not employ an applicant who refuses to consent to a criminal history record check required by this section. Within five business days of making the conditional offer of

employment, a contract agency of an adult care home shall submit a request to the ~~Department of Justice~~ Department of Public Safety under ~~G.S. 114-19.10~~ G.S. 143B-939 to conduct a State or national criminal history record check required by this section, or shall submit a request to a private entity to conduct a State criminal history record check required by this section. Notwithstanding ~~G.S. 114-19.10~~ G.S. 143B-939, the ~~Department of Justice~~ Department of Public Safety shall return the results of national criminal history record checks for employment positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the adult care home as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the adult care home. Contract agencies of adult care homes shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...
(f) Conditional Employment. – An adult care home may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The adult care home shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10~~ G.S. 143B-939.
- (2) The adult care home shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 6.1.(fff) G.S. 131E-159(g) reads as rewritten:

"(g) An individual who applies for EMS credentials, seeks to renew EMS credentials, or holds EMS credentials is subject to a criminal background review by the Department. At the request of the Department, the Emergency Medical Services Disciplinary Committee, established by G.S. 143-519, shall review criminal background information and make a recommendation regarding the eligibility of an individual to obtain initial EMS credentials, renew EMS credentials, or maintain EMS credentials. The Department and the Emergency Medical Services Disciplinary Committee shall keep all information obtained pursuant to this subsection confidential. The Medical Care Commission shall adopt rules to implement the provisions of this subsection, including rules to establish a reasonable fee to offset the actual costs of criminal history information obtained pursuant to ~~G.S. 114-19.21~~ G.S. 143B-952."

SECTION 6.1.(ggg) G.S. 131E-265 reads as rewritten:

"§ 131E-265. Criminal history record checks required for certain applicants for employment.

(a) Requirement; Nursing Home or Home Care Agency. – An offer of employment by a nursing home licensed under this Chapter to an applicant to fill a position that does not require the applicant to have an occupational license is conditioned on consent to a criminal history record check of the applicant. If the applicant has been a resident of this State for less than five years, then the offer of employment is conditioned on consent to a State and national criminal history record check of the applicant. The national criminal history record check shall include a check of the applicant's fingerprints. If the applicant has been a resident of this State for five years or more, then the offer is conditioned on consent to a State criminal history record check of the applicant. An offer of employment by a home care agency licensed under this Chapter to

1 an applicant to fill a position that requires entering the patient's home is conditioned on consent
2 to a criminal history record check of the applicant. In addition, employment status change of a
3 current employee of a home care agency licensed under this Chapter from a position that does
4 not require entering the patient's home to a position that requires entering the patient's home
5 shall be conditioned on consent to a criminal history record check of that current employee. If
6 the applicant for employment or if the current employee who is changing employment status
7 has been a resident of this State for less than five years, then the offer of employment or change
8 in employment status is conditioned on consent to a State and national criminal history record
9 check. The national criminal history record check shall include a check of the applicant's or
10 current employee's fingerprints. If the applicant or current employee has been a resident of this
11 State for five years or more, then the offer is conditioned on consent to a State criminal history
12 record check of the applicant or current employee applying for a change in employment status.
13 A nursing home or a home care agency shall not employ an applicant who refuses to consent to
14 a criminal history record check required by this section. In addition, a home care agency shall
15 not change a current employee's employment status from a position that does not require
16 entering the patient's home to a position that requires entering the patient's home who refuses to
17 consent to a criminal history record check required by this section. Within five business days of
18 making the conditional offer of employment, a nursing home or home care agency shall submit
19 a request to the ~~Department of Justice~~Department of Public Safety under
20 ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or national criminal history record check
21 required by this section, or shall submit a request to a private entity to conduct a State criminal
22 history record check required by this section. Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-939,
23 the ~~Department of Justice~~Department of Public Safety shall return the results of national
24 criminal history record checks for employment positions not covered by Public Law 105-277 to
25 the Department of Health and Human Services, Criminal Records Check Unit. Within five
26 business days of receipt of the national criminal history of the person, the Department of Health
27 and Human Services, Criminal Records Check Unit, shall notify the nursing home or home care
28 agency as to whether the information received may affect the employability of the applicant. In
29 no case shall the results of the national criminal history record check be shared with the nursing
30 home or home care agency. Nursing homes and home care agencies shall make available upon
31 request verification that a criminal history check has been completed on any staff covered by
32 this section. All criminal history information received by the home or agency is confidential
33 and may not be disclosed, except to the applicant as provided in subsection (b) of this section.

34 (a1) Requirement; Contract Agency of Nursing Home or Home Care Agency. – An offer
35 of employment by a contract agency of a nursing home or home care agency licensed under this
36 Chapter to an applicant to fill a position that does not require the applicant to have an
37 occupational license is conditioned upon consent to a criminal history record check of the
38 applicant. If the applicant has been a resident of this State for less than five years, then the offer
39 of employment is conditioned on consent to a State and national criminal history record check
40 of the applicant. The national criminal history record check shall include a check of the
41 applicant's fingerprints. If the applicant has been a resident of this State for five years or more,
42 then the offer is conditioned on consent to a State criminal history record check of the
43 applicant. A contract agency of a nursing home or home care agency shall not employ an
44 applicant who refuses to consent to a criminal history record check required by this section.
45 Within five business days of making the conditional offer of employment, a contract agency of
46 a nursing home or home care agency shall submit a request to the ~~Department of~~
47 ~~Justice~~Department of Public Safety under ~~G.S. 114-19.10~~G.S. 143B-939 to conduct a State or
48 national criminal history record check required by this section, or shall submit a request to a
49 private entity to conduct a State criminal history record check required by this section.
50 Notwithstanding ~~G.S. 114-19.10~~G.S. 143B-939, the ~~Department of Justice~~Department of
51 Public Safety shall return the results of national criminal history record checks for employment

positions not covered by Public Law 105-277 to the Department of Health and Human Services, Criminal Records Check Unit. Within five business days of receipt of the national criminal history of the person, the Department of Health and Human Services, Criminal Records Check Unit, shall notify the contract agency of the nursing home or home care agency as to whether the information received may affect the employability of the applicant. In no case shall the results of the national criminal history record check be shared with the contract agency of the nursing home or home care agency. Contract agencies of nursing homes and home care agencies shall make available upon request verification that a criminal history check has been completed on any staff covered by this section. All criminal history information received by the contract agency is confidential and may not be disclosed, except to the applicant as provided by subsection (b) of this section.

...
(f) Conditional Employment. – A nursing home or home care agency may employ an applicant conditionally prior to obtaining the results of a criminal history record check regarding the applicant if both of the following requirements are met:

- (1) The nursing home or home care agency shall not employ an applicant prior to obtaining the applicant's consent for a criminal history record check as required in subsection (a) of this section or the completed fingerprint cards as required in ~~G.S. 114-19.10~~ G.S. 143B-939.
- (2) The nursing home or home care agency shall submit the request for a criminal history record check not later than five business days after the individual begins conditional employment.

...."

SECTION 6.1.(hhh) G.S. 143-143.10(b)(6) reads as rewritten:

"(6) To request that the ~~Department of Justice~~ Department of Public Safety conduct criminal history checks of applicants for licensure pursuant to ~~G.S. 114-19.13~~ G.S. 143B-944."

SECTION 6.1.(iii) G.S. 148-37.3(c) reads as rewritten:

"(c) Any private corporation described in subsection (a) of this section shall reimburse the State and any county or other law enforcement agency for the full cost of any additional expenses incurred by the State or the county or other law enforcement agency in connection with the pursuit and apprehension of an escaped inmate from the facility.

In the event of an escape from the facility, any private corporation described in subsection (a) of this section shall immediately notify the sheriff in the county in which the facility is located, who shall cause an immediate entry into the ~~State Bureau of Investigation Division of Criminal Information network~~ Department of Public Safety's Criminal Information Network. The sheriff of the county in which the facility is located shall be the lead law enforcement officer in connection with the pursuit and apprehension of an escaped inmate from the facility."

SECTION 6.1.(jjj) G.S. 153A-94.2 reads as rewritten:

"§ 153A-94.2. Criminal history record checks of employees permitted.

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~ Department of Public Safety in accordance with ~~G.S. 114-19.14~~ G.S. 143B-945. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions."

SECTION 6.1.(kkk) G.S. 160A-164.2 reads as rewritten:

"§ 160A-164.2. Criminal history record check of employees permitted.

The council may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the ~~Department of Justice~~

Department of Public Safety in accordance with ~~G.S. 114-19.14~~, G.S. 143B-945. The city may consider the results of these criminal history record checks in its hiring decisions."

SECTION 6.1.(III) G.S. 164-44(a) reads as rewritten:

"(a) The Commission shall have the secondary duty of collecting, developing, and maintaining statistical data relating to sentencing, corrections, and juvenile justice so that the primary duties of the Commission will be formulated using data that is valid, accurate, and relevant to this State. All State agencies shall provide data as it is requested by the Commission. For the purposes of ~~G.S. 114-19.1~~, G.S. 143B-930, the Commission shall be considered to be engaged in the administration of criminal justice. All meetings of the Commission shall be open to the public and the information presented to the Commission shall be available to any State agency or member of the General Assembly."

SECTION 6.1.(mmm) Subpart C of Part 2 of Article 4 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-926. Appointment and term of the Director of the State Bureau of Investigation.

(a) The Director of the State Bureau of Investigation shall be appointed by the Governor for a term of eight years subject to confirmation by the General Assembly by joint resolution. The name of the person to be appointed by the Governor shall be submitted by the Governor to the General Assembly for confirmation by the General Assembly on or before May 1 of the year in which the term for which the appointment is to be made expires. Upon failure of the Governor to submit a name as herein provided, the President Pro Tempore of the Senate and the Speaker of the House of Representatives jointly shall submit a name of an appointee to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the effective date of the appointment, the date of expiration of the term, the residence of the appointee, and that the appointment is made upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. Nothing precludes any member of the General Assembly from proposing an amendment to any bill making such an appointment.

(b) The Director may be removed from office by the Governor for any of the grounds set forth in G.S. 143B-13(b), (c), and (d). In case of a vacancy in the office of the Director of the State Bureau of Investigation for any reason prior to the expiration of the Director's term of office, the name of the Director's successor shall be submitted by the Governor to the General Assembly not later than 60 days after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, the Director shall be appointed by the Governor to serve on an interim basis pending confirmation by the General Assembly."

SECTION 6.1.(nnn) Notwithstanding anything in G.S. 143B-926, as enacted by subsection (mmm) of this section, to the contrary, the Governor shall appoint an acting Director of the State Bureau of Investigation who shall serve until a new Director is appointed pursuant to G.S. 143B-926. A Director shall be appointed pursuant to G.S. 143B-926 no later than June 1, 2015, for a term that shall end on June 30, 2023.

SECTION 6.1.(ooo) Notwithstanding any other provision of law, there shall be no transfer of positions to or from the State Bureau of Investigation and no changes to the total authorized budget of the State Bureau of Investigation, as it existed on March 1, 2014, prior to the transfer of the State Bureau of Investigation to the Department of Public Safety. Under no circumstances shall funds be expended from Budget Code 23606 – Justice Seized and Forfeited Assets, unless those expenditures were reported to the NC General Assembly on or before February 4, 2014. This subsection shall not apply to the following positions, which are hereby transferred to the North Carolina State Crime Laboratory, along with the sum of two hundred sixty-seven thousand six hundred sixty-one dollars (\$267,661) to support those positions:

Position Number:

Position Title:

60011076 Processing Asst IV
60011060 Purchasing Agent II
60011091 Administrative Officer I
60010606 HVAC Technician
60011062 Program Asst V

SECTION 6.1.(ppp) Subpart C of Part 2 of Article 4 of Chapter 143B of the General Statutes is amended by adding a new section to read:

"§ 143B-927. Personnel of the State Bureau of Investigation.

The Director of the State Bureau of Investigation may appoint a sufficient number of assistants who shall be competent and qualified to do the work of the Bureau. The Director shall be responsible for making all hiring and personnel decisions of the Bureau."

ALCOHOL LAW ENFORCEMENT SECTION TRANSFER

SECTION 6.1.(qqq) The Alcohol Law Enforcement Section shall be relocated as a branch under the State Bureau of Investigation.

SECTION 6.1.(rrr) G.S. 18B-500 reads as rewritten:

"§ 18B-500. Alcohol law-enforcement agents.

(a) Appointment. – ~~The Secretary of Public Safety~~Director of the State Bureau of Investigation shall appoint alcohol law-enforcement agents and other enforcement personnel. ~~The Secretary of Public Safety~~Director may also appoint regular employees of the Commission as alcohol law-enforcement agents. Alcohol law-enforcement agents shall be designated as "alcohol law-enforcement agents". Persons serving as reserve alcohol law-enforcement agents are considered employees of the Alcohol Law Enforcement ~~Section~~Branch for workers' compensation purposes while performing duties assigned or approved by the ~~Director~~Head of the Alcohol Law Enforcement ~~Section~~Branch or the ~~Director's Head's~~ designee.

(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, an alcohol law-enforcement agent shall have authority to arrest and take other investigatory and enforcement actions for any criminal offense. The primary responsibility of an agent shall be enforcement of the ~~ABC laws, lottery laws, and Article 5 of Chapter 90 (The Controlled Substances Act); however, an agent may perform any law enforcement duty assigned by the Secretary of Public Safety or the Governor.~~ABC and lottery laws.

...
(g) Shifting of Personnel From One District to Another. – ~~The Director~~Head of the Alcohol Law Enforcement ~~Section~~Branch, under rules adopted by the Department of Public Safety may, from time to time, shift the forces from one district to another or consolidate more than one district force at any point for special purposes. Whenever an agent of the Alcohol Law Enforcement Section is transferred from one district to another for the convenience of the State or for reasons other than the request of the agent, the Department shall be responsible for transporting the household goods, furniture, and personal apparel of the agent and members of the agent's household."

SECTION 6.1.(sss) The following statutes are amended by deleting the word "Section" wherever it appears in uppercase and substituting "Branch": G.S. 18B-101(5), 18B-201, 18B-202, 18B-203, 18B-504, 18B-805, 18B-902, 18B-903, 18B-904, 19-2.1, 105-259(b)(15), and 143-652.1 through 143-658.

SECTION 6.1.(ttt) G.S. 143-651 reads as rewritten:

"§ 143-651. Definitions.

The following definitions apply in this Article:

...

(4a) Branch. – The Alcohol Law Enforcement Branch of the State Bureau of Investigation.

...

(23b) Sanctioned amateur match. – Any match regulated by an amateur sports organization that has been recognized and approved by the ~~Section-Branch~~.

...

(24a) ~~Section. — The Alcohol Law Enforcement Section of the Department of Public Safety.~~

...."

SECTION 6.1.(uuu) G.S. 114-19(a), recodified as G.S. 143B-906 by subsection (j) of this section, reads as rewritten:

"(a) It shall be the duty of the State Bureau of Investigation to receive and collect ~~police~~ criminal information, to assist in locating, identifying, and keeping records of criminals in this State, and from other states, and to compare, classify, compile, publish, make available and disseminate any and all such information to the sheriffs, constables, police authorities, courts or any other officials of the State requiring such criminal identification, crime statistics and other information respecting crimes local and national, and to conduct surveys and studies for the purpose of determining so far as is possible the source of any criminal conspiracy, crime wave, movement or cooperative action on the part of the criminals, reporting such conditions, and to cooperate with all officials in detecting and preventing."

MISCELLANEOUS PROVISIONS

SECTION 6.1.(vvv) The Department of Public Safety shall consolidate ALE and SBI Regions and Regional Offices. These regional offices shall be operational by October 1, 2014.

SECTION 6.1.(www) The Department of Public Safety shall make the following reports on progress implementing this section to the Joint Legislative Oversight Committee on Justice and Public Safety, to the chairs of the Senate Appropriations Committee on Justice and Public Safety, and to the chairs of the House Appropriations Subcommittee on Justice and Public Safety:

- (1) An interim report on or before January 1, 2015.
- (2) A second interim report on or before April 1, 2015.
- (3) A final report on or before October 1, 2015. This report may include any recommendations for changes to applicable statutes.

SECTION 6.1.(xxx) The Department of Public Safety may use funds available to the Division of Law Enforcement in the 2014-2015 fiscal year to create two sworn SBI agent positions and one non-sworn intelligence analyst position in the SBI's Computer Crimes Unit to investigate reports of Internet crimes against children.

SECTION 6.1.(yyy) Subsection (ooo) of this section is effective when this act becomes law. The remainder of this section becomes effective July 1, 2014.

PART VII. ADD RETIRED QUALIFIED CORRECTIONAL OFFICERS/COURSE EXEMPTION

SECTION 7.1. G.S. 14-415.10 is amended by adding a new subdivision to read:

"(4c) Qualified retired correctional officer. – An individual who retired from service as a State correctional officer, other than for reasons of mental disability, who has been retired as a correctional officer two years or less from the date of the permit application and who meets all of the following criteria:

- a. Immediately before retirement, the individual met firearms training standards of the Division of Adult Correction of the Department of Public Safety and was authorized by the Division of Adult Correction of the Department of Public Safety to carry a handgun in the course of assigned duties.

- b. The individual retired in good standing and was never a subject of a disciplinary action by the Division of Adult Correction of the Department of Public Safety that would have prevented the individual from carrying a handgun.
- c. The individual has a vested right to benefits under the Teachers' and State Employees' Retirement System of North Carolina established under Article 1 of Chapter 135 of the General Statutes.
- d. The individual is not prohibited by State or federal law from receiving a firearm."

SECTION 7.2. G.S. 14-415.12A(a) reads as rewritten:

"(a) A person who is a qualified sworn law enforcement officer, a qualified former sworn law enforcement officer, a qualified retired correctional officer, or a qualified retired probation or parole certified officer is deemed to have satisfied the requirement under G.S. 14-415.12(a)(4) that an applicant successfully complete an approved firearms safety and training course."

SECTION 7.3. This Part is effective when this act becomes law.

PART VIII. CONFORM STATE LAW/HALL V. FLORIDA

SECTION 8.1. G.S. 15A-2005 reads as rewritten:

"§ 15A-2005. ~~Mentally retarded defendants;~~ Intellectual disability; death sentence prohibited.

(a) (1) The following definitions apply in this section:

- a. ~~Mentally retarded.~~ Intellectual disability. – A condition marked by Significantly—significantly subaverage general intellectual functioning, existing concurrently with significant limitations in adaptive functioning, both of which were manifested before the age of 18.
- b. Significant limitations in adaptive functioning. – Significant limitations in two or more of the following adaptive skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure skills and work skills.
- c. Significantly subaverage general intellectual functioning. – An intelligence quotient of 70 or below.

(2) The defendant has the burden of proving significantly subaverage general intellectual functioning, significant limitations in adaptive functioning, and that ~~mental retardation~~ intellectual disability was manifested before the age of 18. An intelligence quotient of 70 or below on an individually administered, scientifically recognized standardized intelligence quotient test administered by a licensed psychiatrist or psychologist is evidence of significantly subaverage general intellectual functioning; however, it is not sufficient, without evidence of significant limitations in adaptive functioning and without evidence of manifestation before the age of 18, to establish that the defendant is ~~mentally retarded~~ has an intellectual disability. An intelligence quotient of 70, as described in this subdivision, is approximate and a higher score resulting from the application of the standard error of measurement to an intelligence quotient of 70 shall not preclude the defendant from being able to present additional evidence of intellectual disability, including testimony regarding adaptive deficits. Accepted clinical standards for diagnosing significant limitations in intellectual functioning

and adaptive behavior shall be applied in the determination of intellectual disability.

(b) Notwithstanding any provision of law to the contrary, no defendant ~~who is mentally retarded~~ with an intellectual disability shall be sentenced to death.

(c) Upon motion of the defendant, supported by appropriate affidavits, the court may order a pretrial hearing to determine if the defendant ~~is mentally retarded~~ has an intellectual disability. The court shall order such a hearing with the consent of the State. The defendant has the burden of production and persuasion to demonstrate ~~mental retardation~~ intellectual disability by clear and convincing evidence. If the court determines that the defendant ~~to be mentally retarded~~ has an intellectual disability, the court shall declare the case noncapital, and the State may not seek the death penalty against the defendant.

(d) The pretrial determination of the court shall not preclude the defendant from raising any legal defense during the trial.

(e) If the court does not find that the defendant ~~to be mentally retarded~~ has an intellectual disability in the pretrial proceeding, upon the introduction of evidence ~~of the defendant's mental retardation~~ raising the issue of intellectual disability during the sentencing hearing, the court shall submit a special issue to the jury as to whether the defendant ~~is mentally retarded~~ has an intellectual disability as defined in this section. This special issue shall be considered and answered by the jury prior to the consideration of aggravating or mitigating factors and the determination of sentence. If the jury determines that the defendant ~~to be mentally retarded~~ has an intellectual disability, the court shall declare the case noncapital and the defendant shall be sentenced to life imprisonment.

(f) The defendant has the burden of production and persuasion to demonstrate ~~mental retardation~~ intellectual disability to the jury by a preponderance of the evidence.

(g) If the jury determines that the defendant ~~is not mentally retarded~~ does not have an intellectual disability as defined by this section, the jury may consider any evidence of ~~mental retardation~~ intellectual disability presented during the sentencing hearing when determining aggravating or mitigating factors and the defendant's sentence.

(h) The provisions of this section do not preclude the sentencing of ~~a mentally retarded~~ an offender with an intellectual disability to any other sentence authorized by G.S. 14-17 for the crime of murder in the first degree."

SECTION 8.2. This Part is effective when this act becomes law.

PART IX. INCREASE PENALTY FOR GRAFFITI VANDALISM

SECTION 9.1. Article 22 of Chapter 14 of the General Statutes is amended by adding a new section to read:

"§ 14-127.1. Graffiti vandalism.

(a) Except as otherwise provided in this section, any person who engages in graffiti vandalism of (i) any real property, whether public or private or (ii) any public building or facility, or any statue or monument situated in any public place, shall be guilty of a Class 1 misdemeanor. A person convicted of a Class 1 misdemeanor under this subsection shall be fined a minimum of five hundred dollars (\$500.00) and required to perform 24 hours of community service.

(b) Any person who violates subsection (a) of this section shall be guilty of a Class I felony if either of the following apply:

(1) The cost to repair damage caused by the violation is in excess of one thousand dollars (\$1,000).

(2) The person has two or more prior convictions for violation of this section.

(c) If a person is convicted of five or more violations of this section in a single session of district court or in a single week of superior court, and at least five of the offenses occurred

1 within a 60-day period, the court shall consolidate the offenses for judgment and the
2 consolidated offenses shall be punishable as a Class I felony.

3 (d) As used in this section, "graffiti vandalism" means to unlawfully write or scribble
4 on, mark, paint, deface, besmear, or injure the walls of (i) any real property, whether public or
5 private, (ii) any public building or facility as defined in G.S. 14-132, or (iii) any statue or
6 monument situated in any public place, by any type of pen, paint, or marker regardless of
7 whether the pen or marker contains permanent ink, paint, or spray paint."

8 **SECTION 9.2.** This Part becomes effective December 1, 2014, and applies to
9 offenses committed on or after that date.

10 **PART X. UNFAIR USE OF CRIMINAL RECORD INFORMATION**

11 **SECTION 10.1.** Chapter 75 of the General Statutes is amended by adding a new
12 section to read:

13 **"§ 75-43. Unfair use of criminal record information.**

14 (a) The violation of any provision of this section shall be considered an unfair trade
15 practice, as prohibited by G.S. 75-1.1.

16 (b) A person commits a violation under this section if the person does both of the
17 following:

- 18 (1) Engages in publishing or otherwise disseminating, in print or over the
19 Internet, photographs of an individual taken pursuant to G.S. 15A-502(a)(1)
20 or G.S. 15A-502(a2) or authorized by G.S. 15A-502(b).
21 (2) Solicits or accepts the payment of a fee or other consideration to remove the
22 individual's photograph."

23 **SECTION 10.2.** This Part becomes effective December 1, 2014, and applies to
24 violations occurring on or after that date.

25 **PART XI. EFFECTIVE DATE**

26 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
27 law.
28
29